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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,773	09/12/2003	Kouichi Tada	100341-00046	5773
4372	7590	08/22/2007		
ARENT FOX PLLC 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			EXAMINER TRAN, THANG V	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 08/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,773

Applicant(s)

TADA ET AL.

Examiner

Thang V. Tran

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

An amendment 06/01/07 has been entered and considered with the following results:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumon et al. (JP 2000322742A).

Regarding claims 1 and 2, Kumon et al, according to Fig. 2 and an abstract, teaches an optical disk device (see Fig. 2), which is used for identifying a kind of an optical disk and operated depending upon the kind of the identified disk, comprising: a detector (207) for performing a step of detecting a wobble signal recorded on a recording surface of the disk; a determiner (208) for performing a step of determining a number of a cycle of the wobble signal detected by the detector by comparing the cycle of the wobble signal to a cycle of at least one reference signal (reference clock); and an identifier (209) for performing a step of identifying the kind of the disk based on the number of cycle of the wobble signal identified by the determiner (see abstract). However, Kumon et al fails to suggest the use of identifying whether the optical disk is DVD-RW or DVD+RW having the same track pitch by identifying the number of the cycle of the wobble is 186 times or 32 times data cycle. But, it is known in the optical data storage and/or retrieval art that a wobble formed by tracks on a DVD-RW has a cycle of 186 times longer than recording clock cycle and a wobble formed by tracks on a DVD+WR has a cycle of 32 times longer than recording clock cycle, and since the device of Kumon et al. identifies the type of disk by measuring/counting the cycle of the wobble, it would have been obvious to one of ordinary skill in that at the time the invention was made to employ the disk device as taught by Kumon et al for also identify the

DVD-WR or DVD+WR having the same track pitch because the disk type identifier as taught by Kumon et al I relies on the measuring/counting cycle of wobble formed by the track of the optical disk to identify the type of disk. Again, since the DVD-RW and DVD+RW as recited in the instant claimed invention having the same track pitch, but different in wobble cycle, one having level skill in the art would immediately recognizes that either the DVD-RW or DVD+RW of the instant claimed invention can be easily identified by the disk type identifier as taught by Kumon et al by measuring/counting the wobble cycle formed on the disk.

Response to Arguments

3. In response to Applicant's arguments filed 6/01/07, Applicant should note that the invention is mainly directed to a method/apparatus including an identifying step or identifier for identifying the kind of disk is a DVD-RW or DVD+RW based on the determined cycle of the wobble formed on the disk. The identification of the type of disk has nothing do to the track pitch formed on the disk since it relies on the determined cycle of the wobble to identify the type of disk regardless whether the disk having the same track pitch or not. Like, applicant's invention, Kumno et al teaches the use of the identifier for identifying the type of disk based on the determination of the wobble cycle formed on the disk, but not the track pitch. Therefore, one of ordinary skill in the would immediately recognize that the DVD-RW or the DVDR_RW, based in its wobble cycle, would be easily recognized by the identifier taught by Kumon et al since it is known in the art that wobble cycle of the DVD-RW and the DVD+RW is not the same regardless the track pitch formed on the disk is the same or difference. For these reasons, the 35 USC 103 rejection applied to claims 1 and 2 is maintained.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (571) 272-7595. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen Hoa can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Thang V. Tran
Primary Examiner
Art Unit 2627